

## **ORDINANCE NO. 1981**

AN ORDINANCE AMENDING THE CITY OF GARDNER ZONING ORDINANCE NO. 1733 BY REPEALING SECTION 16-522 "PLANNED UNIT DISTRICT" AND ADDING SECTION 16-527 "PLANNED ZONING DISTRICT".

WHEREAS, the City of Gardner, Kansas initiated an amendment to Article 16-522 of The Gardner, Kansas Zoning Ordinance relating to District "PUD" Planned Urban Development requirements within the City of Gardner, Kansas; and

WHEREAS, a public hearing on the City's request was held before the Planning Commission of the City of Gardner, Kansas, on the 26<sup>th</sup> day of February, 2001; and

WHEREAS, said Planning Commission has recommended that said amendment to the zoning ordinance of the City of Gardner, Kansas, be approved.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF GARDNER, KANSAS:

SECTION ONE: That Section 16-522 of the zoning ordinance of the City of Gardner, Kansas, is hereby amended with the following language:

"No new applications under this section will be allowed after the affective date of section 16-527."

and that Section 16-527, Planned Zoning District "PZD", shall be added as follows:

### **16-527 DISTRICT "PZD" PLANNED ZONING DISTRICT**

#### **527.1 Intent.**

It is the intent of this chapter to provide a procedure by which land areas in the City can be uniquely zoned and developed to meet the needs of the City, property owners, residents and developers, and encourage flexibility and innovative design of residential, commercial and industrial development and to provide an alternative to compliance with conventional zoning and subdivision regulations. It is also the intent of the City Council to exercise all powers authorized by Section 12-755 of the Kansas Statutes Annotated, as amended.

#### **527.2 Objectives of a Planned Zoning District.**

Objectives to be achieved through a Planned Zoning District are:

- A. To provide for necessary commercial, recreational, and educational facilities conveniently located to housing;
- B. To provide for well-located, clean, safe, and pleasant industrial sites involving a minimum of strain on transportation facilities;
- C. To encourage that the provisions of the zoning laws which direct the uniform treatment of dwelling type, bulk, density, and open space within each zoning district will not be applied to the development of multi-lot projects;
- D. To encourage innovation in residential, commercial, and industrial development and renewal so that the growing demands of the population may be met by greater variety in type, design, and layout of buildings and by the conservation and more efficient use of open space ancillary to said buildings;

- E. To encourage a more efficient use of land and of public services, or private services in lieu thereof, and to reflect changes in the technology of land development so that resulting economies may assist in providing housing to those who need homes;
- F. To lessen the burden of traffic on streets and highways;
- G. To encourage the building of new developments incorporating the best features of modern design;
- H. To conserve the value of the land;
- I. To provide a procedure which can relate the type, design, and layout of residential, commercial, and industrial development to the particular site, thereby encouraging preservation of the site's natural characteristics;
- J. To encourage integrated planning in order to achieve the above purposes; and
- K. To encourage a land use pattern that supports the cost effective delivery of public services and facilities.

### **527.3 General Provisions**

- A. **Applicability.** No Planned Zoning District may be approved without the consent of the owner of the land subject to the Planned Zoning District. The owner of any land may apply for approval of a Planned Zoning District; however, the City Council shall have discretion, as guided by the standards set forth in this section, to approve, conditionally approve, or deny an application for a Planned Zoning District.
- B. **Permitted Uses, Density, and Intensity of Development Within a Planned Zoning District.**
  - 1. Any combination of uses may be permitted in a Planned Zoning District so long as the City Council determines that such uses are compatible with one another and with the property that could reasonably be impacted by the development of any proposed Planned Zoning District. Compatibility shall be determined based on the extent to which any proposed use of land within the Planned Zoning District would unreasonably interfere with the enjoyment of any other use of land within and adjacent to the Planned Zoning District. Factors that shall be considered include but are not limited to the type and intensity of uses, the extent to which uses complement one another, the bulk of structures associated with any use, and the noise, light, traffic, vibrations and other similar external impacts associated with each use.
  - 2. The density and/or intensity of development shall be based on the capacity of the land proposed for development to support the Planned Zoning District as well as the impact of the proposed development on City services and facilities and on neighboring property that reasonably could be impacted by the proposed development. Capacity of the land shall be determined based on the size, topography, and geological and environmental limitations of the land proposed for development. Notwithstanding the foregoing, residential development shall not exceed a gross density of sixteen (16) units per acre; non-residential floor area ratios shall be in accordance with Table 522.16(1); and the Open Space Requirements shall be in accordance with Table 522.16 (2).
- C. **Procedures And Requirements.**
  - 1. **Plan Requirements.** All Planned Zoning Districts to be developed in phases shall require a General Development Plan, Preliminary Development Plan and Final Development Plan. Planned Zoning Districts that consist of only one phase shall require a Preliminary Development Plan and Final Development Plan.
  - 2. **Application Requirements.** A formal application provided by the City of Gardner itemizing the submittal requirements necessary for the City of Gardner to conduct a review addressing the findings listed herein shall be submitted. After submittal of the necessary items for review, approval consists of a General Development Plan for any Planned Zoning District proposed to be developed in phases, and a Preliminary Development Plan and Final Development Plan for

each phase of the Planned Zoning District, all of which shall comply with the submittal requirements of the Gardner City Code.

3. **General Development Plan Approval.** The General Development Plan shall be submitted to the Community Development Department. The Director shall review the General Development Plan and make a recommendation to the Planning Commission at a public hearing to determine whether the General Development Plan should be approved, approved with conditions or denied. The Planning Commission's recommendation shall be forwarded to the City Council at a public hearing to consider the recommendation of the Planning Commission and approve, approve with conditions, or deny the application.

- a. **Conceptual Review Conference.** A conceptual Review Team meeting shall be required.

- b. **Findings.** The Director shall make findings that accompany a recommendation to the Planning Commission. Such findings shall address the following issues:

- (1) Whether the General Development Plan conforms to the requirements of this section and to the Community Development Plan;
    - (2) Whether the proposed development will negatively impact traffic in the area, City utilities, or otherwise have a detrimental impact on property that is in sufficient proximity to the proposed development to be affected by it. If such impacts exist, the Director shall recommend either disapproval of the General Development Plan or reasonable conditions designed to mitigate the negative impacts;
    - (3) Whether the proposed development will be complementary to and in harmony with existing development plans including but not limited to the Main Street Corridor Plan, Municipal Airport Plan, and future development plans for the area in which the proposed development is to take place by:
      - (a) Incorporating natural physical features into the development design and providing sufficient open spaces considering the type and intensity of use;
      - (b) Incorporating site planning techniques that will foster the implementation of the City's master plans, and encourage a land use pattern that will support a balanced transportation system, including auto, bike and pedestrian traffic, public or mass transit, and the cost effective delivery of other municipal services consistent with adopted plans, policies and regulations of the City;
      - (c) Incorporating physical design features in the development that will provide a transition between the project and adjacent land uses through the provision of an attractive entryway, edges along public streets, architectural design, and appropriate height and bulk restrictions on structures;
      - (d) Incorporating identified environmentally sensitive areas, including but not limited to, wetlands and wildlife corridors, into the project design;
      - (e) Incorporating public facilities or infrastructure, or cash-in-lieu, that are reasonably related to the proposed development so that the proposed development will not negatively impact the levels of service of the City's services and facilities; and
      - (f) Incorporating an overall plan for the design of the streetscape within the project, including landscaping,

auto parking, bicycle and pedestrian circulation, architecture, placement of buildings and street furniture.

- (4) Whether the proposed development will be complementary to and in harmony with the Character of the neighborhood;
- (5) Whether the proposed development will be complementary to and in harmony with the zoning on nearby properties;
- (6) Whether the proposed development will be complementary to and in harmony with the uses on nearby property;
- (7) An evaluation of the length of time the subject property has remained vacant.

- c. **Planning Commission Findings.** To recommend approval, or approval with conditions, of a General Development Plan, the Planning Commission shall make the same findings as required of the Director in paragraph (3.b) of this subsection (C).
- d. **City Council Findings.** To approve, or approve with conditions, a General Development Plan, the City Council shall make the same findings as required of the Director in paragraph (3.b) of this subsection (C).
- e. **Effect of Approval.** If the City Council approves or conditionally approves a General Development Plan, it shall adopt an ordinance rezoning the property subject to the General Development Plan hereby establishing the General Development Plan as the zoning district for the property, except that no development may take place on the property subject to the General Development Plan until a Preliminary Development Plan and Final Development Plan have been approved pursuant to this section. The General Development Plan shall be signed by the Mayor, the Director, the City Engineer, and the City Attorney or their respective designees, and the General Development Plan may not be recorded without such signatures. After the General Development Plan is signed, the ordinance approving or conditionally approving the General Development Plan shall be recorded by the applicant without undue delay in the real property records for Johnson County and the City's zoning map shall be changed to reflect the rezoning of the property subject to the General Development Plan. The General Development Plan shall be kept on file with the Community Development Department and available for public inspection.
- f. **Findings and Conclusions For Denial.** Whenever the City Council denies an application for General Development Plan approval, it shall adopt findings and conclusions in support of the denial within thirty days from the date of the denial.
- g. **Amendments.** A General Development Plan may be amended in the same manner as it was approved, except that the Director may approve minor amendments. A minor amendment shall not permit a use not allowed under the original General Development Plan, increase density of development by more than ten (10) percent, decrease the amount of open space by more than ten (10) percent up to five (5) acres, change any requirement for the payment of money or the dedication of land or other property rights to the City or the public, or relocate any public right-of-way. However, in no event may the Director approve a minor amendment to reduce the open space to less than the required percentage set forth in Table 16-522-(2) or increase the density above the amount established within the GDP. Amendments that are other than minor, as defined herein, shall be major amendments and shall be recommended by the Director to the Planning Commission. The Planning Commission at a public hearing shall recommend major

amendments to the City Council. The City Council at a public hearing may approve a major amendment by ordinance or disapprove the amendment.;

- h. Lapse.** If an application for approval of a Preliminary Development Plan is not filed with the City within one year from the date of approval of the General Development Plan, or, where there is no General Development Plan, for approval of a Final Development Plan within one year from the date of approval of the Preliminary Development Plan, then approval of the General Development Plan or Preliminary Development Plan, as the case may be, shall lapse and the applicant will be required to submit a new application for such plan, except that the applicant may, before the expiration of the one year period, seek an additional period of time within which to file the required plan. An application for extension of time shall be made to the Director. The Director may grant or deny the extension in his or her discretion. If the extension is granted, then the Director shall issue an approval for an extension of time within which to file the required plan.

- 4. Preliminary Development Plan Approval.** The Preliminary Development Plan shall be submitted to the Community Development Department. The Director shall review the Preliminary Development Plan and make a recommendation to the Planning Commission at a public hearing to determine whether the Preliminary Development Plan should be approved, approved with conditions or denied. The Planning Commission's recommendation shall be forwarded to the City Council at a public hearing for final action to determine whether the Preliminary Development Plan should be approved, approved with conditions or denied.

- a. Process For Preliminary Development Plans Where There Is No General Development Plan.** Preliminary Development Plans for which there is no General Development Plan shall be processed in accordance with the provision under paragraph (3) of this subsection as if such Preliminary Development Plan was a General Development Plan and also require the submittal of a Preliminary Plat.

- b. Process For Preliminary Development Plans Within a General Development Plan.** Preliminary development plans located within an approved General Development Plan shall require the submittal of a Preliminary Plat and be processed in accordance with the provisions of paragraph 4 of this subsection.

- (1) Conceptual Review Conference. A Conceptual Review Team meeting shall be required.

- c. Findings.** The Director shall make findings that accompany a recommendation to the Planning Commission. Such findings shall address the following issues:

- (1) Whether the Preliminary Development Plan conforms to the General Development Plan on file with the City where the property is being developed in phases;
      - (2) Whether the Preliminary Development Plan conforms to the requirements of this section and to the Community Development Plan;
      - (3) Whether the proposed development will negatively impact traffic in the area, City utilities, or otherwise have a detrimental impact on property that is in sufficient proximity to the proposed development to be affected by it. If such impacts exist, the Director shall recommend either disapproval of the Preliminary Development Plan or reasonable conditions designed to mitigate the negative impacts;

- (4) Whether the Preliminary Development Plan complies with applicable land use and development regulations in effect as of the date that the General Development Plan was approved, except that the Preliminary Development Plan can be required to comply with regulations adopted after approval of the General Development Plan if the Director and the Planning Commission expressly find that such compliance is necessary to protect public health, safety and welfare.
  - d. **Planning Commission/City Council Findings.** To approve, or approve with conditions, a phased Preliminary Development Plan, the Planning Commission and City Council shall make the same findings as required of the Director in subparagraph (4c).
  - e. **Resolution.** The approval or conditional approval of a Preliminary Development Plan shall be by a resolution by the City Council. Such resolution shall incorporate by reference the Preliminary Development Plan and General Development Plan. The resolution shall be recorded by the applicant in the real property records of Johnson County and the Preliminary Development Plan shall be filed with the Community Development Department and be available for public inspection.
  - f. **Appeals:** All appeals shall be processed in accordance with Article 15 of the Gardner City Code.
  - g. **Amendments.** The Preliminary Development Plan may be amended in the same manner as it was approved, except that the Director may approve minor amendments without review by the Planning Commission. Minor amendments shall not permit a use not allowed under the original Preliminary Development Plan, increase density of development by more than ten (10) percent, decrease the amount of open space by more than ten (10) percent up to five (5) acres, change any requirement for the payment of money or the dedication of land or other property rights to the City or the public or relocate any public right-of-way. However, in no event may the Director approve a minor amendment to reduce the open space to less than the required percentage set forth in Table 16-522-(2) or increase the density above the amount set forth in the GDP. Amendments other than minor, as defined herein, shall be major amendments and shall be recommended to the Planning Commission.
  - h. **Lapse.** If an application for approval of a Final Development Plan is not filed with the City within one year from the date of approval of the applicable Preliminary Development Plan, then approval of the Preliminary Development Plan shall lapse and the applicant will be required to submit a new Preliminary Development Plan for approval by the City; except that the applicant may before the expiration of the one year period seek an additional period of time within which to file a Final Development Plan. Application for an extension of time shall be made to the Director who may grant or deny the extension in his or her discretion. If the extension is granted, then the Director shall issue an approval for an extension of time within which to file a Final Development Plan.
5. **Final Development Plan Approval.** A Final Development Plan shall be submitted to the Community Development Department.
- a. **Process For Final Development Plans.**
    - (1) **Concept Review Team.** A proposed Final Development Plan shall be reviewed by the Concept Review Team.
    - (2) **Review Process.**
      - (a) The Final Development Plan shall be reviewed by the Director in consultation with the planning division staff

and other City departments. The Director shall either approve or deny the Final Development Plan within thirty (30) days from the date that it is submitted and shall base such decision on a determination as to whether the Final Development Plan is in substantial compliance with the Preliminary Development Plan as approved or conditionally approved and applicable land use and development regulations in existence on the date the Preliminary Development Plan was approved, unless the Director affirmatively finds that the imposition of regulations adopted after approval of the Preliminary Development Plan is necessary to protect public health, safety and welfare.

- (b) If the Director approves the Final Development Plan, a notice of Final Development Plan approval shall be recorded by the applicant in the real property records of Johnson County without due delay, referencing the approved Final Development Plan. The Final Development Plan shall be filed with the Community Development Department and be available for public inspection. If the Director denies the Final Development Plan, a notice of denial shall be issued to the applicant setting forth the basis for the denial.
- (c) **Appeals:** Appeals shall be processed in accordance with Article 15 of the Gardner City Code.
- (d) **Amendments.** A Final Development Plan may be amended in the same manner as it was approved and must meet the same standards as required for approval. Any amendments to a Final Development Plan may be required to comply with applicable land use and development regulations adopted after approval of the General Development Plan or the Preliminary Development Plan if compliance is necessary to protect public health, safety and welfare.

- 7. **Other Regulations.** All City Gardner Codes, regulations, and development standards shall apply to Planned Zoning Districts, except when such Gardner Codes, regulations, or standards are inconsistent with the terms and conditions of an approved General Development Plan, Preliminary Development Plan, or Final Development Plan, in which case the terms and conditions of such plans shall be deemed an exception to or waiver from such Gardner Codes, regulations, and standards.

Submittal requirements including any necessary studies including but not limited to a Traffic Impact Study, Noise Impact Study, Environmentally Sensitive Areas Report, Phase 1 Environmental Assessment, View Shed Analysis, or independent technical third party review can be required by the Director.

- 8. **Combined applications.**
  - a. An applicant may submit a combined application for Planned Zoning District approval and subdivision approval so long as the combined application meets the more comprehensive submittal requirements, all applicable regulations, and is reviewed by all appropriate authorities. A preliminary subdivision plat may only be submitted with an application for Preliminary Development Plan approval and the final subdivision plat may be submitted with the Final Development Plan, except that the final subdivision plat shall be approved in the manner set forth in Chapter 17 of the Gardner City Code. In addition, the Planning Commission and

- City Council may each hold simultaneous hearings on combined applications.
- b. An applicant also may combine applications for General Development Plan, Preliminary Development Plan and Final Development Plan approval, or an appropriate combination thereof.

**Table 16-527-(1)**  
**Maximum Floor Area Ratios for Planned Zoning Districts**

Use	Floor Area Ratio
Commercial/Retail Floor Area Ratio (except lodging establishments):	0.75
Light and Heavy Industrial:	1.0
Warehouse	0.75
Lodging Establishments	1.0
Research Laboratories	1.0
Institutional/Civic/Public/Miscellaneous	1.0
Other Non-Residential Uses	1.0

**Table 16-527-(2)**  
**Minimum Open Space Requirements For Planned Zoning Districts**

Use	Minimum Open Space
Single Family detached and two family Dwellings	Lots greater than 6,000 sq. ft.: 20%
Mobile home parks	Lots 5,000 – 6,000 sq. ft.: 25%
Residential uses other than single detached and two family dwellings and mobile home parks	25%
Institutional/Civic/Public/Miscellaneous Uses	40%
Commercial/Retail Uses	20%
Industrial Uses	20%

Notes:1. Minimum open space shall be calculated as a percentage of the gross area within the Planned Zoning District devoted to the use listed in the first column of the table.

SECTION TWO: All other ordinances of said City in conflict herewith are hereby amended to conform to the provisions of this Ordinance.

SECTION THREE: This Ordinance shall take effect and be in force from and after passage and publication as provided by law.

PASSED and APPROVED by the Governing Body of the City of Gardner, Kansas, this 19<sup>th</sup> day of March, 2001.

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Mayor



ATTEST:

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City Clerk

(SEAL)